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ABSTRACT

This paper focuses on the challenges that states face as they implement the accountability provisions of the No Child Left Behind (NCLB) Act, particularly those related to the identification and assistance of schools in need of improvement. Studies are underway that examine the implementation of some NCLB sanctions, such as the supplemental services requirement. This paper begins by looking at the status of state assessment and accountability prior to the enactment of the NCLB to give readers a sense of the types and extent of changes required of states. The second section describes the early implementation of the NCLB accountability provisions, primarily the development and approval of state accountability plans, and raises a number of design and implementation issues that states face. The last section identifies three factors--the lack of fiscal resources, limited human resources, and potentially the identification of a large number of schools for assistance--that may create the conditions for a "Perfect Storm." (Contains 35 references.) (SLD)

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Implementing the No Child Left Behind Act: The Potential for a "Perfect Storm"

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Federal policy has played a major role in supporting standards-based reform since the passage of the Improving America's Schools Act (IASA) of 1994. That law required states to establish challenging content and performance standards, implement assessments that measure students' performance against these standards, hold schools and school systems accountable for the achievement of all students, and take other steps to promote programmatic flexibility and to foster instructional and curricular reform.

During the mid- and late-1990s, states and school districts began to move in the direction of standards-based reform, consistent with the intent of IASA. But state policy responses were uneven. While all states developed assessments, standards, performance reporting, and in most cases, consequences for performance, states found different ways to define what it meant for schools to succeed, what indicators to include in their definition of success, and what the consequences would be (Goertz and Duffy, 2001).

The No Child Left Behind Act (NCLB) of 2001 was designed, in part, to address this variability in state policy. With the enactment of this law, the federal government has increased its role in state education policy significantly. Specially, in the areas of assessment and accountability, the NCLB Act:

- Expands required testing in reading and mathematics from at least once during each of three grade spans—third-to-fifth, sixth-to-ninth, and tenth-to-twelfth—to every student, annually, in grades three through eight, as well as once in high school;
- Adds tests in science starting in 2007-08, and requires LEAs to assess the English proficiency of English language learners starting this year;
- Requires states to measure the progress of all schools and school districts using the same definition of adequate yearly progress;
- Establishes a target date—2013-14—by which all students must score at a state-defined "proficient" level;
- Specifies how states should measure adequate yearly progress;
- Holds schools, school districts and states accountable for the yearly progress of subgroups of students;
- Delineates the types of corrective action that states and districts should take when Title I-funded schools fail to improve; and

- Shortens the timeline for imposing sanctions on Title I schools that fail to improve (e.g., requires public school choice after two years of not making adequate yearly progress, the provision of supplemental services after three years, and the application of corrective actions after four years.)

This paper focuses on the challenges that states face as they implement the accountability provisions of the NCLB Act, particularly those related to the identification and assistance of schools in need of improvement. Studies are underway that examine the implementation of some of the NCLB sanctions, such as the supplemental services requirement.[1] I begin this paper by looking at the status of state assessment and accountability policy prior to the enactment of the NCLB to give readers a sense of the types and extent of changes required of states. The second section describes the early implementation of the NCLB accountability provisions, primarily the development and approval of state accountability plans, and raises a number of design and implementation issues that states face. The last section identifies three factors—the lack of fiscal resources, limited human resources, and potentially the identification of a large number of schools for assistance—that may create the conditions for a Perfect Storm.

Status of State Policy pre-NCLB

When Congress enacted the NCLB Act, states were at different stages of meeting these expanded requirements (Goertz and Duffy, 2001; NATI/IRP, 2001; U.S. Department of Education, 2001a). In the area of assessment, for example, forty-eight states had implemented statewide assessments in reading and mathematics by 2001. But only 13 states and the District of Columbia tested consecutive grades between grades 2 or 3 and at least grade 8 in the same subject areas using the same assessment, as required by the NCLB. Another 3 states tested consecutive grades between grades 2 or 3 and 8 in different subjects and/or using multiple assessments. The other 32 states tested students in only one or two grades per subject in elementary school, middle school and high school, as required by the IASA.

With respect to accountability, while the intent of the IASA was to create single and "seamless" accountability systems that would treat all schools equally, only 22 states had single accountability systems in place by 2000-2001. More than half of the states had dual accountability systems where Title I schools were subject to different measures of adequate yearly progress. Thirteen of these states used public reporting as their primary accountability mechanism for non-Title I schools. States also differed in the percentage of students that schools were expected to bring up to their "proficient" standard (only seven states expected 90 to 100 percent of their students to reach proficiency); timelines for meeting these performance goals (if they had timelines); and how they measured adequate yearly progress. Only one-third of the states focused on closing the gap between low- and high-achieving students in their Title I schools, and only two states required schools to close achievement gaps between White students and students of color, between economically disadvantaged and economically advantaged

[1] For example, SRI International, Case Studies of the Implementation of NCLB Supplemental Educational Services, for the U.S. Department of Education.

students, between students with and without disabilities, or between English-dominant and limited English-speaking students.

Thus, states had a long way to go to meet the assessment and accountability requirements of the NCLB Act, as well as the other myriad provisions of the new law. No state had a system in place that met all of the provisions of the law.

Implementation of the NCLB Accountability Provisions

Developing State Plans

All states had to submit state accountability plans to the U.S. Department of Education (USED) by January 31, 2003 for review and approval by the Secretary of Education. State plans must meet ten criteria issued by Secretary Paige on July 24, 2002 and referenced to the NCLB legislation (Paige, 2002). These criteria are:

1. A single statewide accountability system applied to *all* public schools and LEAs.

2. *All* public school students are included in the State accountability system.

3. A State's definition of adequate yearly progress (AYP) is based on expectations for growth in student achievement that is continuous and substantial, such that all students are proficient in reading and math no later than 2013-14.

4. A State makes annual decisions about the achievement of all public schools and LEAs.

5. All public schools and LEAs are held accountable for the achievement of individual subgroups.

6. A State's definition of AYP is based primarily on the State's academic assessments.

7. A State's definition of AYP includes graduation rates for high schools and an additional indicator selected by the State for middle and elementary schools (such as attendance rates.)

8. AYP is based on separate reading/language arts and math achievement objectives.

9. A State's accountability system is statistically valid and reliable.

10. In order for a school to make AYP, a State ensures that it assess at least 95% of students in each subgroup enrolled.

Each state undergoes an on-site peer review of its plan by a five-person team composed of one staff member from the U.S. Department of Education's Student Achievement and School Accountability Office (Title I), a representative of the Office of Assistant Secretary for Elementary and Secondary Education, and three external reviewers with expertise in assessment and accountability. Some of the external reviewers are researchers; many are current or retired state department of education assessment and accountability directors. The three peer reviewers submit a report to the USED that assesses the strengths and weaknesses of the state plan. The Department then works with each state to finalize a plan that will garner federal approval. The peer review site visits should be completed by the end of April 2003, with a projected approval date for all plans of June 2003. Ten state plans had been approved as of April 16, 2003, and are posted on the USED's website.[2] These plans and reviews do not include information on, or evaluations of, corrective actions (e.g., choice, supplemental services, reconstitution) or of proposed technical assistance by states or LEAs to schools identified as in need of improvement. States that expand and/or change their state assessment systems in response to the NCLB Act will undergo a separate assessment peer review.

States struggled to develop accountability plans with limited guidance from the USED. In June 2002, Secretary Paige began sending a series of policy letters to the chief state school officers, sometimes in response to questions raised by these state leaders. Final regulations for the NCLB were not issued until November 26, 2003, two months before plans were due. As a result, states turned to each other, to their member organizations (such as the Council of Chief State School Officers and the Education Commission of the States)[3] and to consultants for help in preparing their plans. Many states also looked for guidance in the provisions of the first state plans approved by the Secretary of Education in early January 2003.

Design Issues

There has been considerable discussion in the policy, political and research communities about the type and extent of flexibility states have in responding to the requirements of the NCLB Act. With regard to accountability, some provisions allow no flexibility. For example, some state accountability systems used a performance index that combined performance on reading and mathematics (a compensatory model). States now have to hold schools and districts accountable separately for reading and mathematics (a conjunctive model). States must calculate AYP separately for all students and all subgroups of students in a school and school district. Also, states must follow the NCLB provisions for establishing "starting points" for the AYP targets,[4] as well as

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[2] The ten states are Colorado, Delaware, Indiana, Kansas, Maryland, Massachusetts, Mississippi, New York, Ohio and West Virginia. The website is: www.ed.gov/offices/OESE/CFP/csas/.

[3] See for example, Education Commission of the States (2002) and related information on their website, www.ecs.org; Forte-Fast and ASR SCASS (2002); CCSSO (2002).

[4] The starting point—the percentage of students proficient of higher on the statewide assessment—must be established separately for reading and mathematics, but states have the

timelines for implementing specified sanctions to Title I schools. There are other areas where it appears that states have some flexibility in the application of the NCLB provisions. For example, states may choose an additional academic indicator for elementary and middle schools. This section of the paper looks at four other decision areas that states addressed as they designed or redesigned their state accountability systems. The first two concern the alignment of state and federal accountability policies.

Aligning state and federal accountability provisions. The first issue states faced was how to align their state accountability systems with the requirements of the new federal law, and how much flexibility they had to achieve this goal. States fell into three general categories: (1) those that did not have a state accountability system (beyond public reporting) prior to the enactment of the NCLB Act (e.g., New Hampshire); (2) those that were developing or revising state accountability systems that are more multi-faceted than those called for by the NCLB (e.g., Michigan and Ohio);[5] and (3) states with established and unified systems of school accountability that did not align with the AYP provisions of the NCLB Act (e.g., KY, MA, MD and NC). We would predict that the states in the first category will adopt the NCLB model of adequate yearly progress as their state accountability system. States in the second and third categories appear to be taking one of three approaches: (1) replacing their state definition of adequate yearly progress with the federal definition; (2) "layering" the federal AYP definition onto their state accountability categories; or (3) modifying provisions of their state accountability system to meet the requirements of the NCLB Act.

Maryland, for example, chose to replace its prior definition of adequate yearly progress. Under its old system, schools had to show "substantial and sustained" progress toward the state performance standards as calculated by a School Performance Index to make AYP. Its new accountability plan, recently approved by the USED, sets relatively linear performance targets, based on a school's starting point and the goal of having 100% students achieve proficiency (State of Maryland, 2003).

Michigan, North Carolina and Ohio are examples of states that designed systems that "layer" the federal AYP definition onto their state accountability categories. Under this approach, a state uses its own academic measures to categorize school success. A

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option of creating one starting point for each subject area, or separate starting points by grade span. The starting point must be based on the higher of (a) the lowest-achieving group of students in the state, or (b) the school at the state's 20th percentile in terms of the proportion of students at proficient levels.

[5] For example, Michigan's new accountability system, Education Yes!, incorporates three achievement measures (a school's status on MEAP, an average of its MEAP scores over three years, and growth for a cohort of students) and three sets of non-cognitive measures (engagement, instructional quality and learning opportunities). The achievement measures receive a total weight of 67% and the non-cognitive measures receive a total weight of 33%. This is in contrast to the NCLB which requires that the AYP determination must be based primarily on student achievement. While states can add include additional academic measures, they may not be used to reduce the number of schools or districts identified for improvement, nor to eliminate schools identified for intervention.

school's success on the federal AYP will affect its placement on the state scale, however. For example, the Ohio plan, which was approved by the USED, will give each school and school district one of five designations (from Academic Emergency to Excellent) based on the proportion of Ohio's 22 report card indicators they meet, a performance index score, AYP as defined by federal statute and, when the state assessment system is complete, a measure based on individual student achievement gains over time (State of Ohio, 2003). A school or district cannot be designated "excellent" without meeting the federal AYP; it will drop to the next lowest category of "effective." A school can be designated "effective" based on Ohio indicators, yet miss meeting AYP for up to two years. Schools that perform poorly on the Ohio indicators, however, can get a higher rating—"continuous improvement," rather than "academic watch" or "academic emergency"—if they meet AYP.

North Carolina has proposed retaining its value-added measure of achievement, a major component of its state accountability system since 1996, by including it as one of three factors, including the federal AYP, that determine a school's status. Mississippi, another state that uses a value-added measure of school performance, has taken the same approach. In addition, Mississippi will include its value-added measure of expected growth as the additional academic indicator required by the NCLB in determining a school's AYP status (State of Mississippi, 2003).

Other states have chosen to modify specific provisions of their state accountability system to meet the requirements of the NCLB Act. For example, some states used a "relative growth" approach for measuring progress in their state accountability systems. That is, schools had to meet an annual (or in a few cases, biennial) growth target based on each school's past performance and that often reflected its distance from state goals. This is in contrast to the "absolute target" method used under the NCLB, where all schools and subgroups must meet the same, specified performance threshold or target annually (for a given grade or subject) in order to make satisfactory progress. Massachusetts retained the "relative growth" component of its state accountability program by requiring that all districts, schools and subgroups perform at or above the State target for a specific time period or show improvement at a rate that, projected forward, puts the school "on target" for getting all students to proficiency or above by 2014. Massachusetts also used to calculate progress every two years, rather than on the annual basis called for in the NCLB. They retained their two year cycle of setting performance targets, but now have an intermediate improvement goal for determining AYP that will be 2/3 of the improvement target for that two-year cycle. Finally, Massachusetts' Proficiency Index permits them to measure change within the two lowest student performance categories, Failing/Warning and Needs Improvement. These provisions appear to have won federal approval (State of Massachusetts, n.d.).

Dual systems of rewards and sanctions. While the NCLB Act requires states to apply the same accountability policies to all schools and school districts, the provisions regarding sanctions for schools that fail to meet AYP (e.g., choice, supplemental services, corrective actions) are limited to schools receiving Title I funds. States have the option of extending any or all of these sanctions to non-Title I schools, but as of 2001, fewer than 20 states had these policies in place. According to the Education Commission of the

States (2002, p. 21), 11 states had provisions for placing low-performing schools on probation, 13 states had provisions for removing their accreditation and four could withhold funding. Slightly more states are authorized to reconstitute (19), close (10), and/or take-over (15) low-performing schools. If the other states do not enact similar policies, the NCLB will result in a uniform system of identifying schools in need of improvement, but a dual system of applying sanctions.

As with most policy, "the devil is in the details." States have limited flexibility with some of the more detailed design elements of their accountability policies. Two will be discussed here: (1) setting intermediate objectives; and (2) setting the minimum number of students required for including schools or groups of students in the accountability calculations.

Setting intermediate objectives. While the NCLB specifies how states must set their "starting points," the law gives states more flexibility in setting intermediate performance goals for schools, districts and student subgroups, intermediate targets that ensure that performance objectives are continually increased until all students reach proficiency by 2013-14. Under the law, these goals must increase in equal increments. States, however, determine the time intervals for these objectives, as long as the first interval is within two years, and subsequent intervals occur at least every three years. Many states are establishing these intermediate goals at equal time intervals, thereby creating a relatively linear path of performance growth. A few states, however, have "backloaded" their performance targets by setting only three intermediate objectives in the first eight years (between 2002-03 and 2009-10), and then setting four more intermediate objectives in the last four years, one per year. Since each intermediate objective requires an equal increment of growth, this has the effect of requiring schools to get only half-way towards their goal in the first eight years (rather than in the first six years), and the other half of the way in the last four years.[6]

This "back-loading" approach was approved in Ohio and Indiana, and has been proposed by other states, such as Michigan. The architects of the Michigan plan justified this method by arguing that the strongest academic gains will occur in later years, "after school reforms have been institutionalized, needed resources brought to bear, technical assistance provided, and capacity improved. The growth expectations [in the annual objectives and intermediate goals] assume that low-performing schools must develop a shared, coherent, and explicit set of norms about what constitutes a high performing

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[6] Assume that a state's starting point is 40% of its students at the proficient level in 2002-03, and the goal is 100% proficient by 2013-14. If a state sets equal time increments (e.g., 2005 (required under NCLB), 2008, 2001 and 2014), the target for each of these years would be 55% (2005), *70% (2008)*, 85% (2011) and 100% (2014)—a fifteen percentage point growth roughly every three years. If a state uses a "backloading" approach, the intermediate targets might be 50% (2005), 60% (2008), *70% (2011)*, 80% (2012), 90% (2013) and 100% (2014)—a ten percentage point growth roughly every three years through 2011, and then a ten percentage point growth every year for the remaining time. The italicized figures represent the half-way point in meeting 100% proficiency in these examples.

school before the most substantial improvement in test scores will occur." (State of Michigan, 2003, p. 28.)

Minimum N size. States are also struggling with determining the minimum number of students that are required to include subgroups of students in the calculation of AYP. This is a particular issue in states that currently test only one grade per grade span, and in states with small (generally rural) schools. In choosing a minimum N, states balance issues of statistical reliability against the impact of this decision on their schools. Pennsylvania, for example, proposed a minimum N of 75 students for disaggregated groups, arguing that this will "limit over-identification" of schools and "makes optimal use of resources" (Pennsylvania State Board of Education, 2002). A quick review of the first five approved state plans shows that states are choosing a minimum N in the 30 to 40 student range.

Implementation Issues

Apart from the design of their accountability systems, states face a number of implementation issues—some short term, some long term.

State approval of new policies. One immediate issue concerns the need in many states to get state board or legislative approval of, and in some cases funding for, new assessment systems and accountability policies. The legislative role is particularly critical in enabling the state to impose sanctions on schools that fail to improve, and in funding improvement activities and systems of rewards.

Inclusion of special needs students. Another pressing issue involves the inclusion of students with disabilities and English language learners in state assessment and accountability systems. Although the IASA and the 1997 amendments of the Individuals with Disabilities Education Act (IDEA) call for the inclusion of all students in assessment and reporting systems, states differed in whom they tested and how, and whether results for these students were reported and included in accountability calculations. While states are including more students with disabilities in state assessments through expanded accommodations and alternate assessments, few states include the scores of all tested students in their accountability calculations (Thurlow et al., 2002; Bolt, Krentz and Thurlow, 2002). With regard to students with limited proficiency in English, some states have excluded students who have resided in the United States or in their state up to three years and are enrolled in a bilingual or English-as-a-Second-Language (ESL) program. Other states have exempted students based on the length of time spent in an ESL or bilingual education program or based on their level of English proficiency. About one-third of the states offered versions of some of their assessments in languages other than English (Goertz and Duffy, 2001).

The NCLB Act, however, requires states to test all students, regardless of their disability or proficiency in English, with reasonable adaptations and accommodations. States may not, as in the past, exempt English language learners based on the length of their residency in the United States or on their level of English proficiency. These students may be assessed in their native language, although they must be assessed in

reading/language arts in English after three years of attending a school in the United States. Ninety-five percent of students must participate in a state's assessment in order for a school, district, or state to make adequate yearly progress. Students' scores are included in the AYP calculations, however, only if they have been enrolled in a school or district or state for a "full academic year" as defined by the state.

States face several challenges in implementing these provisions of the law. The first is how to assess limited English proficient students if this requires developing tests in their native language or tests with accommodations. The second concerns the use of "out of level" testing—that is, tests geared for grades lower than the grade attended by the student. This approach was banned in the final regulations issued in December 2002, but is being revisited by the USED as it applies to students taking alternate assessments.[7] A third issue is how to incorporate scores from tests taken with non-standard accommodations into accountability calculations.

Implementing choice and supplemental services. A third short term issue regards the provision of choice and supplemental services to students attending Title I schools that were in school improvement or corrective action as of January 7, 2002, and/or were identified in the 2002-03 school year. Districts have struggled to notify parents, identify school and service options, and get programs up and running. States had to put in place a process for approving supplemental service providers and disseminating that information. In a recent study of Title I accountability systems and school improvement efforts (TASSIE), half of school districts with identified Title I schools reported they offered some form of choice in the 2001-02 school year.[8] Of those districts offering choice, about one-third had open enrollment programs, but only one-quarter offered transfers to an alternate public school within the district with transportation provided.

Districts, however, reported a series of challenges in implementing choice, such as lack of alternate schools within the district, lack of space and lack of transportation. These challenges differed by district size, however, with small districts more constrained, not surprisingly, by a lack of alternate schools, and large districts challenged by a lack of space in their schools. It appears that access to supplemental services will also be a major problem for small, and particularly rural, districts. Responding to concerns raised by educational leaders and Congressmen in rural states, Secretary Paige recently

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[7] The USED issued a notice for proposed rulemaking on March 20, 2003 that would allow up to one percent of students—those with the most significant cognitive impairments—to be measured against alternate standards, rather than grade level standards.

[8] The findings reported here are drawn from the first year evaluation of Title I Accountability Systems and School Improvement Efforts (TASSIE). Districts are nationally representative of all districts that receive Title I funds. The project also surveyed principals in a nationally representative sample of 740 Title I schools identified as in need of improvement. This Congressionally-mandated study is being conducted by SRI International and Policy Studies Associates, with assistance from the Consortium for Policy Research in Education. The first year report and other reports will be posted on the project website, www.TASSIEonline.org, as they become available.

announced the formation of a task force on rural education in the USED to help rural school districts comply with the NCLB (U. S. Department of Education, 2003).

Longer term issues. Most states face a longer term issue of how to incorporate new tests into their accountability system, particularly as they expand the number of tested grades. This will require states to readjust their starting points and incremental targets, and can have implications for which schools get identified for improvement. States must also develop methods for determining the reliability of their AYP decisions. Finally, districts and states must develop structures and systems of support to schools identified in need of improvement. Under the NCLB Act, local school districts must ensure that these schools receive technical assistance in the development and implementation of their improvement plans, and, if necessary, implement corrective action for schools that fail to improve. Corrective actions include instituting and implementing a new curriculum, including the provision of appropriate professional development; decreasing management authority at the school or restructuring the internal organization of the school; appointing outside experts to assist the school; and extending the length of the school day or year (Title I: 34 CFR Part 200; Sections 200.40 through 200.43). These actions will require district knowledge, personnel and financial resources. State departments of education must reserve two percent of their Title I administrative funds in 2001-02 and 2002-03, and four percent of their funds in succeeding years to support local school improvement activities (with a 95 percent pass-through to LEAs), provide technical assistance to identified schools, and provide technical assistance to local school districts identified for improvement or corrective action (Section 200.49).

Is a "Perfect Storm" Brewing?

Under the right conditions, strengthened accountability systems can contribute to the improvement of education in many schools and communities in the country. A multi-state longitudinal study of standards-based reform, conducted by the Consortium for Policy Research in Education in the late 1990s, found that well-developed state and local standards and performance-based accountability systems provided a clear focus to districts, schools and teachers regarding the attainment of student outcomes, and created incentives for school and school system improvement. State and school district standards, coupled with aligned assessments, set clear expectations for student achievement in the study districts, and guided curriculum development, school improvement planning, local assessments, and professional development. (Goertz, 2001; Massell, 2001; Wilson and Floden, 2001).

But research on school-based performance awards programs and other accountability policies also show that clear goals and incentives are necessary, but not sufficient, to motivate teachers to reach their school's student achievement goals. Teacher motivation is also influenced by the presence of various capacity-building conditions, such as meaningful professional development (Kelley et al., 2000). Teacher knowledge and skills related to improved instruction are also important. (See for example, Borko, Elliott and Uchiyama, 1999, and Wolf et al., 1999, as cited in Herman, in press; Kelley et al., 2000; Spillane and Thompson, 1997). Yet, the assessment and accountability provisions in the NCLB Act, like earlier state and federal policies,

emphasize accountability over capacity-building. States and districts need knowledge, human resources and financial resources to turn around poorly-performing schools.

The lack of these resources, coming together with a potentially large number of schools identified for assistance under the NCLB, may create the conditions for a Perfect Storm.

Increased Identification of Schools in Need of Improvement

In the first two years of the NCLB Act, any school that performs below the 20th percentile, generally the starting point of its AYP formula, will fail to meet adequate yearly progress. In addition, any school that has a subgroup with the minimum number of students that falls below this level will not meet AYP (subject to the "safe harbor" provision of the law). Because of the large achievement disparities between White students and other groups of students, the subgroup accountability provision of the NCLB Act has the potential to result in large numbers of schools being identified as needing improvement. For example, Ohio reports that more than 90 percent of the 277 schools with at least 30 African-American students would have failed AYP in 2001-02. Only one of the 101 schools with at least 50 students with disabilities would have met AYP that year as well (State of Ohio, 2003). Similarly, North Carolina projects that only 27 percent of its elementary and middle schools would have made AYP for 2000-01 compared to 15 schools currently in school improvement under the old Title I AYP definition (State of North Carolina, 2003).

Lack of Fiscal Capacity

At the same time that the NCLB will lead to more schools requiring assistance from local school districts and states, the financial resources available to provide that support are sorely lacking. According to the National Governors Association,

> States are facing a perfect storm: deteriorating tax bases, an explosion in health care costs, and a virtual collapse of capital gains and corporate profit tax revenues. The current problem is long-run and structural, and will take at least 3 to 5 years to remedy. (NGA, 2003).

As of November 2002, states were facing budget shortfalls of nearly $30 billion in fiscal 2003 and $82 billion in fiscal 2004 (NGA, 2003). The 2003-04 deficit represents nearly 18 percent of all state expenditures (Lav and Johnson, 2003), making this the worse fiscal crisis for states since World War II (NGA, 2003). Spending for K-12 education represents about 1/3 of state budgets.

In 2002-3003, states responded to reduced revenues and spiraling Medicaid costs by curtailing spending and using "one-shot" actions, such as spending surplus funds and borrowing against their tobacco settlements, to balance budgets, rather than by raising taxes significantly. In the best cases, states provided small increases in, or froze, state aid to education. In the worst cases, states cut state aid. In probably the most widely publicized action, more than 50 Oregon school districts, including Portland, shortened

their school year in response to ten percent reductions in state aid (Johnson, Lav and Ribeiro, 2003).

Only 28 states planned to exempt education from budget cuts in the forthcoming year (NGA/NASBO, 2002), but these decisions could change as deficits deepen. Some states have proposed substantial reductions in education aid, such as a $1.2 billion cut recommended by Governor Pataki in New York State. Facing budget cuts of 10 to 15 percent and declining enrollment, some urban districts are cutting administrative staff and closing schools (Reid, 2003).

Increases in federal aid will not do much to offset state budget cuts. While funding for Title I jumped $2.336 billion, or 23.4% between fiscal years 2001 and 2002, and increased another $1.442 billion, or 11.7% in fiscal year 2003, President Bush's proposed fiscal year 2004 budget raises Title I funding by only $433 million, or 3.1% (Education Week, 2002, 2003).

Lack of Human Capacity

Reductions in state budgets were generally accompanied by small reductions in state staff in 2002-03 (NGA/NASBO, 2002). But even in more prosperous times, states had limited capacity to support schools in need of improvement (U. S. Department of Education, 2001b). In addition, states that did not have unified accountability systems often provided assistance only to Title I schools, relying on Title I funds (Goertz and Duffy, 2001). In the TASSIE survey, districts reported that they, and not states, were the primary source of most kinds of assistance to low-performing schools in 2001-02. The exception was special grants to support school improvement.

The TASSIE study also found that district assistance to low-performing schools focused primarily on school planning, disaggregating data, and supporting the adoption of new curricula. Many identified schools reported they did not receive resource-intensive assistance through school support teams or additional staff assigned to provide on-site professional development and/or mentoring for the principal. Schools located in large districts, however, were more likely to report they received these kinds of support than schools in small districts. Thus, issues of district capacity to support low-performing schools may be especially salient for small districts (defined as having less than 3500 students), which had about one-third of the schools identified for improvement in 2001-02.

Conclusion

Will the ship go down in the storm? Some argue that the NCLB will collapse under its own weight. While most policymakers support the intent of the law, they fear that the large-scale identification of schools as failing will undermine the legitimacy of existing state accountability systems. In addition, states and districts will not have the resources to assist most of these identified schools. How can policymakers and educators navigate the stormy waters without losing sight of, and support for, the law's purpose?

States are developing new accountability policies that align with the NCLB. The stringent requirements for participation in state assessments and the public reporting of disaggregated data and school performance will make disparities in student achievement much more visible. The question then becomes what actions states and school districts will and can take to address these problems given limited resources. Most likely, states will use their own school performance categories to continue to ration scarce school improvement resources. The lowest-performing schools—under both state and federal definitions—will receive the most help, but research shows that it may not be of sufficient intensity to bring about major change. Districts will be responsible for supporting the other schools, many of which will have been identified because of subgroup performance. But will states and districts really sanction high performing schools that fail to raise the achievement of one group of students?

Thus, a critical factor is how the federal government implements the NCLB Act, particularly in the early years. Will the federal government focus more on compliance and sanctions than on building capacity? The signals from Washington are that the government will emphasize compliance, particularly compliance with the sanctions sections of the law. Much has been made this year of how states and school districts have failed to provide choice and supplemental services to students in Title I schools already in school improvement. It is not clear whether and when the Department of Education will withhold federal funds if they determine that states and districts are not meeting the requirements of the NCLB. But, citing the slow implementation of the IASA, administration officials (as well as many in the civil rights community) believe that the problem is one of will, not skill. If the federal government continues in this direction, then the ship will sink. They must acknowledge, and act on, the need to build capacity at all levels of the system.

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